IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI BILAL NAZKI

ACTING CHIEF JUSTICE

and
HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 2334 of 2003

Between:

M.Narsimha S/o Rajaiah
23-1-108, Kotla Azeeze,
Charminar, Hyd.

..... PETITIONER

AND

1. The Hon'ble High Court of AP.,
   Rep. by its Registrar (Admn.,)
   Hyd.

2. The Hon'ble Metropolitan Session Judge,
   Nampally, Hyd.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondents & issue an appropriate writ, order or direction particularly one in the nature of writ of mandamus declaring the action of respondent No.2 in passing the removal order vide Proceedings Dis.No. 1843/A.W-E/MSJ/HYD/99 DT 20-4-99 & confirmed by the respondent No.1 in order ROC.NO. 293/99-C.II/1 dated 21-2-2002 as illegal, arbitrary unjust in violation of principles of natural justice, contrary to law, perverse, disproportionate to the gravity of the charge & in violation of Art 14, 21 of the Constitution of India & consequently by setting aside the impugned orders & grant relief of reinstatement with continuity of service & back-wages & attendant benefits.

Counsel for the Petitioner : MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents : SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following :

ORAL ORDER:

(per Hon'ble The Acting Chief Justice)

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1 . This writ petition has been filed challenging the order of removal from service of the petitioner. The order was confirmed in appeal by respondent No.1. The learned counsel for the petitioner submits that the punishment is too harsh as the petitioner was absent only for one week. Therefore, the punishment was not proportionate to the guilt. He relies on a judgment of the Supreme Court reported in **SYED ZAHEER HUSSAIN Vs. UNION OF INDIA & OTHERS (1).**

2. Before going back to the judgment, it would be proper to note certain facts. That the writ petitioner has been removed on the charge that he remained absent from 14.7.1998 to 21.7.1998. But it is also a fact that petitioner has been habitual in remaining absent. He remained unauthorisedly absent from 16.6.1997 to 21.6.1997, 26.6.1997 to 2.7.1997 and 3.9.1997 to 9.9.1997 and also on 1.11.1997, 17.11.1997 and from 27.11.1997 t o 30.11.1997 while working in the Court of

(1) 1999 SCC (L & S) 666.

II Metropolitan Magistrate, Hyderabad, and was warned to be careful in future by proceedings dated 5.5.1998 and petitioner also remained unauthorisedly absent to duty from 5.6.1998 to 12.6.1998 in the Court of the Chief Metropolitan Magistrate, Hyderabad and was warned by the Chief Metropolitan Magistrate, Hyderabad, to be careful in future by proceedings dated 18.6.1998. On number of occasions the petitioner remained absent from duties and was warned and ultimately he remained absent for one week from 14.7.1998 to 21.7.1998. After due enquiry, he was removed from service. The judgment, of which reference has been made, was a case in which the appellant remained absent for one week and there was no history of being continued unauthorized absence. For these reasons, we do not find any merit in this writ petition, which is accordingly dismissed. No costs.

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BILAL NAZKI. ACJ.,

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GOPALA KRISHNA TAMADA. J.,

Dated: 15.04.2005.

VRK.

To

1. The Registrar (Admn.,), Hon'ble High Court of AP.,
   Hyderabad.

2. The Hon'ble Metropolitan Session Judge,
   Nampally, Hyderabad.

3. Two CD copies.

*Form-NIC-OGS/WP{**VEENA**}*

HON'BLE SRI BILAL NAZKI,

ACTING CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE

GOPALA KRISHNA TAMADA

W.P.NO. 2334 OF 2003.

(Order of the Bench delivered by

Hon'ble The Acting Chief Justice)

Dt: 15.04.2005.